

LITTLER MENDELSON, P.C.  
650 California Street  
20th Floor  
San Francisco, CA 94108.2693  
415.433.1940

1 KENNETH R. O'BRIEN, Bar No. 072128  
LITTLER MENDELSON  
2 A Professional Corporation  
2520 Venture Oaks Way, Suite 390  
3 Sacramento, CA 95833.4227  
Telephone: 916.830.7200  
4 Facsimile: 916.561.0828

5 BARRETT K. GREEN, Bar No.  
LITTLER MENDELSON, P.C.  
6 2049 Century Park East, 5th Floor  
Los Angeles, California 90067.3107  
7 Telephone: 310.553.0308  
Facsimile: 310.553.5583  
8

RICHARD H. RAHM, Bar No. 130728  
9 ANGELA J. RAFOTH, Bar No. 241966  
LITTLER MENDELSON  
10 A Professional Corporation  
650 California Street, 20<sup>th</sup> Floor  
11 San Francisco, CA 94108-2693  
Telephone: 415.439.6210  
12 Facsimile: 415.520.9816

13 Attorneys for Defendant  
CON-WAY FREIGHT INC.

14 MICHAEL L. CARVER, Bar No. 173633  
15 MICHELLE M. LUNDE, Bar. No. 246585  
LABOR LAW OFFICE  
16 A Professional Corporation  
1395 Ridgewood Drive, Suite 300  
17 Chico, California 95973  
Telephone: (530) 891-8503  
18 Facsimile: (530) 891-8512

19 R. DUANE WESTRUP, Bar No. 058610  
LAWRENCE R. CAGNEY, Bar No. 141845  
20 WESTRUP KLICK LLP  
444 W. Ocean Boulevard, #1614  
21 Long Beach, CA 90802-4524  
Telephone: 562.432.2551  
22 Facsimile: 562.435.4856

23 Attorney for Plaintiff  
JORGE QUEZADA  
24  
25  
26  
27  
28

LITTLER MENDELSON, P.C.  
650 California Street  
20th Floor  
San Francisco, CA 94108.2693  
415.433.1940

STIPULATION: ANSWER AS RESPONSIVE  
PLEADING

CASE NO. C 09-03670 JSW

**STIPULATION**

The parties hereto, by and through their respective counsel, hereby stipulate and request the Court to order as follows:

WHEREAS, on February 22, 2013, Defendant Con-way Freight, Inc. ("Defendant") moved to stay proceedings in this case pending the Ninth Circuit's decisions in two pending appeals addressing the scope of federal preemption of California meal and rest break requirements;

WHEREAS, in opposition to Defendant's Motion to Stay, Plaintiff asserted that he had abandoned the cause of action for allegedly missed rest breaks asserted in the operative Second Amended Complaint;

WHEREAS, on March 25, 2013, the Court issued an Order denying Defendant's Motion to Stay and ordering Plaintiff to file an amended complaint omitting the rest-break claim on before April 2, 2013;

WHEREAS, on April 2, 2013, Plaintiff filed his Third Amended Complaint in this action, omitting his rest-break cause of action and making other minor changes to conform the pleading to other intervening proceedings in the case;

WHEREAS, when Plaintiffs filed their Second Amended Complaint, Defendant concluded that its earlier Answer to the Amended Complaint was sufficient to stand as its response to the Second Amended Complaint, and entered into a stipulation to that effect on July 14, 2010, which stipulation was accepted and so ordered by this Court;

WHEREAS, Defendant similarly concludes that an amended Answer is not necessary to address the changes in Plaintiff's allegations between the Second Amended Complaint and the now-operative Third Amended Complaint;

WHEREAS, the preparation of an Answer to the Third Amended Complaint would amount to an unnecessary expenditure of resources where the parties agree that the claims and defenses at issue in this matter are fairly raised by the current pleadings.

IT IS HEREBY STIPULATED AND AGREED, by and through the parties' respective counsel of record, that Defendant's existing Answer shall stand as its responsive pleading to Plaintiffs' Third Amended Complaint. Because the parties entered into a similar stipulation,

STIPULATION: ANSWER AS RESPONSIVE  
PLEADING

1 approved by the Court, with regard to the Second Amended Complaint, the operative Answer  
2 incorporated here was filed in response to Plaintiff's Amended Complaint.

3 IT IS SO STIPULATED.

4 Dated: April 19, 2013

5 /s/ Angela J. Rafoth  
6 RICHARD H. RAHM  
7 ANGELA J. RAFOTH  
8 LITTLER MENDELSON  
A Professional Corporation  
Attorneys for Defendant  
CON-WAY FREIGHT INC.

9 Dated: April 19, 2013

10 /s/ Lawrence Cagney  
11 LAWRENCE CAGNEY  
12 WESTRUP KLINK LLP  
Attorneys for Plaintiff  
JORGE QUEZADA

13 PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO ORDERED:  
14

15 Dated: April 23, 2013

16   
17 HON. JEFFREY S. WHITE  
18  
19  
20

21 Firmwide:119795452.3 012187.1046  
22  
23  
24  
25  
26  
27  
28